

Remarks

Claims 1, 2, 4, 6-8 and 11-22 are pending. Claim 1 is amended herein.

Rejection Pursuant to 35 U.S.C. §102

In the Office Action, claims 1, 2, 6, 15-17 and 19-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Husar (US 2002/0061260 A1).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Claim 1 is amended herein and recites a device for analyzing a biological liquid sample comprising a composite body of a plurality of layers of flat materials defining two or more sample channels for transporting the sample liquid from an application site to a measuring site wherein the plurality of layers of flat material comprise a plurality of transport layers arranged in a stack-like manner between two support layers, the transport layers each comprise two sections having opposing edges which comprise side walls of the sample channels, the sides of the support layers that face the transport layers are coated with an electrode layer comprising an electrically conductive material, and the support layers are displaced relative to one another in a step-like manner, such that the electrode layers comprise a connecting section extending beyond an adjacent transport layer. Support for this amendment can be found, for example, at least in Figs. 2, 3 or 5-8. No new matter has been added.

In the Office Action, it is stated that Husar discloses a device for analyzing liquid samples comprising layers (i.e., transport layer 2 and support layer 3) that are sandwiched together to define a plurality of channels and chambers therebetween (see Fig. 14). It is further recited that the side of the support layer 3 that faces the transport layer 2 is coated with an electrode layer 17 (see claim 24) comprising a pair of electrodes for electrophoretically separating constituents of the liquid sample wherein one electrode can be made from gold (see [0125]).

Husar teaches the object of the invention is achieved by a system for handling liquid samples, comprising at least one device . . . having at least two superposed and interconnected planar elements (2,3) between which a well (4) for a liquid sample is formed. The planar element 2 is referred to as a "volume-receiving part" because it has formed therein the well 4 for a liquid sample, which well 4 is connected to a small cup-shaped secondary well 8 via a channel 7 of a significantly smaller cross-section. (see para. [0019, 0129-131]). The planar element 3 is a thin cover sheeting that can be connected to the planar element 2. It will then close the well 4 and the channel 7. (see para. [0138-139]).

With reference to para. [0167-168], Fig. 7 shows a parallelization by arranging several disposables 1"" on top of each other (by a pile-up). What are shown are the volume members 2"". "It is understood, however, that all of the volume members 2"" will be completed by membrane sheetings and cover sheetings in the above-described way."

Husar shows a planar volume-receiving part (formed as an embossed or injection molded component) having a semi-open channel which is closed only on one side by a cover 3. Contrary to the assertion in the Office Action, the cover 3 does not form a support for two sections of the transport layer – Husar does not teach or suggest a plurality of transport layers arranged in a stack-like manner between two support layers. In contrast, as noted above, in the pile-up of volume members 2"", each will be completed by membrane and cover sheetings.

Husar moreover generally teaches functional elements such as membranes and electrodes [0081, 0125], but not an electrode layer (17) as was asserted in the Office Action. As disclosed at para. [0145], Fig. 2 shows a disposable 1 with an additional planar element 17 in the form of a membrane sheeting which is disposed between the passage 16 and the secondary well 8. The membrane sheeting 17 can be a membrane

as is used for sterile filtration . . . and serves for filtering the suction air to avoid the contamination of the handling apparatus to be joined to the passage 16. The membrane sheeting 17 is intended to cover the passage area of the suction air so that it is sufficient for it to slightly project beyond the edge of the passage 16 or that of the secondary well 8. In the example, it is approximately of a square shape with its width corresponding to the width of the covering sheeting 3.

Para. [0169] of Husar explains that the proportioning disposables shown in Fig. 7 are of different lengths in order to connect all of the secondary wells 8 (or perhaps of the cover sheetings placed on top) to a displacement device. Fig. 8 shows how to superpose proportioning disposables 1^{IV} on the basis of the volume-receiving part 2^{IV}. The proportioning disposables 1^{IV} are of different lengths in order to allow an access to the secondary wells 8 (see para. [0173]).

The additional assertion in the Office Action that Husar discloses a plurality of devices stacked together in a staggered arrangement such that an electrode layer (17) extends beyond an adjacent transport layer 2 cannot be supported. Husar does not teach this feature and cannot be relied upon in support of the instant rejection.

Claims 2, 6, 15-17 and 19-22 include all of the limitations of the amended base claim from which each depends. In view of the present amendment and remarks, applicant respectfully requests that the rejection be withdrawn.

Rejections Pursuant to 35 U.S.C. §103

Also in the Office Action, claims 4 and 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Husar in view of Oloman et al. (U.S. Pat. No. 4,118,305). Claims 7 and 8 are rejected under §103(a) as being unpatentable over Husar in view of Chan (US 5,565,143). Claim 14 is rejected under §103(a) as being unpatentable over Husar in view of Stapleton et al. (US 5,922,604). And claim 18 was

rejected under §103(a) as being unpatentable over Husar in view of Weigl et al. (US 2001/0027745 A1).

All of the rejections rely on Husar as a primary reference. For all of the reasons set out above, Husar cannot be relied upon in the support of the instant rejection as it does not teach each and every element of independent claim 1, and none of the secondary references cited, alone or in combination, fulfill the deficiencies of Husar. Applicant submits that a prima facie case of obviousness cannot be established and respectfully requests that the rejections be withdrawn.

Conclusion

Applicant has filed a complete response to the outstanding Office Action and respectfully submits that, in view of the above amendments and remarks, the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

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